

UNITED STATES DISTRICT COURT

District of Massachusetts

WILLIAM RYAN and JOHN J. SHAUGHNESSY, )  
as they are TRUSTEES, INTERNATIONAL UNION )  
OF OPERATING ENGINEERS LOCAL 4 HEALTH )  
AND WELFARE, PENSION, AND ANNUITY FUNDS, )  
and LOUIS G. RASETTA and CHRISTOPHER )  
BARLETTA, as they are TRUSTEES, HOISTING AND )  
PORTABLE ENGINEERS LOCAL 4 APPRENTICE )  
AND TRAINING FUNDS and INTERNATIONAL )  
UNION OF OPERATING ENGINEERS, LOCAL 4, )

Plaintiffs )

vs. )

FOSTER CONSTRUCTION, INC., )

Defendant )

C.A. No. 03-12606-GAO

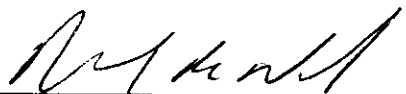
AFFIDAVIT OF RANDALL E. NASH

Randall E. Nash, being duly sworn, deposes and says:

1. I am the duly authorized agent of the plaintiffs, and its attorney of record, and have personal knowledge of the facts set forth in this affidavit.
2. The plaintiffs on December 24, 2003, filed in this cause a complaint against the defendants.
3. Examination of the court files and record in this cause shows that the defendant was served with a copy of summons, together with a copy of plaintiffs' complaint, on January 29, 2004.
4. More than 20 days have elapsed since the date on which the defendant was served with summons and a copy of the complaint.

5. The defendant has failed to answer or otherwise defend as to plaintiffs' complaint, or serve a copy of any answer or other defense which it might have had, upon the plaintiffs or their attorney of record.
6. This affidavit is executed by affiant in accordance with Rule 55(a) of the Federal Rules of Civil Procedure, for the purpose of enabling the plaintiff to obtain an entry of default against the defendant, for its failure to answer or otherwise defend as to the plaintiffs' complaint.

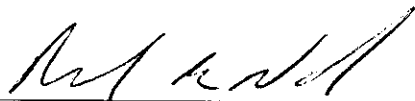
SIGNED UNDER THE PAINS AND PENALTIES  
OF PERJURY THIS 12<sup>th</sup> DAY OF MARCH, 2004.



Randall E. Nash  
BBO #546963  
11 Beacon Street, Suite 500  
Boston, MA 02108  
(617)742-5511

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the defendant by mail on March 12, 2004.



Randall E. Nash